

Greece

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1. Legal framework

The following national and international laws govern trademarks in Greece:

- the Trademark Law (2239/1994);
- the Unfair Competition Law (146/1914), as amended by Article 29 of Law 3784/2009;
- relevant EU legislation on trademarks, including – among others – the Community Trademark Regulation (40/94) and the First Trademarks Directive (89/104/EEC);
- the Paris Convention for the Protection of Industrial Property 1883;
- the World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights;
- the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of Registration of Marks (Eighth Edition);
- the Madrid Agreement, with the declaration that the limit to notify refusal of protection shall be 18 months; and
- the Protocol to the Madrid Agreement concerning the International Registration of Marks.

2. Unregistered marks

Protection

Although the Greek Trademark Law does not cover unregistered signs, these are in practice protected in accordance with the provisions of the Law on Unfair Competition. In particular, Article 13 of that law offers protection against the risk of confusion with similar signs that are deemed to have become distinguishing features of the source of the goods or services that they cover.

Use requirements

In order to gain protection, an unregistered sign must be shown to have achieved market penetration or acquired distinctive character. There are no specific statutory conditions outlining the extent and type of use that would satisfy the above criterion – hence, courts carry out this exercise on a case-by-case basis. In this respect, the jurisprudence of the EU courts is particularly important, setting out

that the competent authorities must make an overall assessment of the evidence suggesting that the mark has come to identify the product concerned as originating from a particular undertaking, thus distinguishing it from goods of other undertakings.

3. Registered marks

Ownership

There are no specific limitations as to who may apply for a trademark in Greece: individuals and legal entities may both file for the registration of a trademark, while clubs and associations may also apply for the registration of collective trademarks.

Power of attorney

A simply signed power of attorney must be granted to the authorised attorney for the filing of trademarks, with no further legalisation requirements. Its validity is for five years, during which it can be used for further applications.

Scope of protection

According to Article 1(1) of the Trademark Law, a trademark can be any sign capable of being represented graphically and of distinguishing the goods or services of one undertaking from those of others. In particular, a trademark may consist – among other things – of words, names of natural or legal persons, pseudonyms, acronyms, designs, letters, numerals, the shape of goods or of their packaging, and even the title of a newspaper or magazine.

Articles 3(1) and following of the Trademark Law provide that, among others, the signs listed below cannot be protected as trademarks:

- signs that are devoid of any distinctive character;
- signs that are descriptive, commonly used or functional;
- signs that may deceive the public as to the nature, quality or geographical origin of the goods or services intended to be covered;
- signs that are against public policy or morality; and

- signs that consist of the flags, emblems, symbols, escutcheons, signs or hallmarks of the Greek state or of any other state covered by Article 6ter of the Paris Convention and signs of great symbolic value.

4. Procedures

Examination

Following the filing of a trademark application, a hearing takes place before the Trademarks Committee; an *ex officio* examination is carried out if there are any reasons to reject the trademark application. The examination looks into absolute grounds for refusal and, to a certain extent, at relative grounds as well, subsequently issuing a decision on the basis of the outcome of this examination. In case of objections, the authorised attorneys representing the applicant must attend the hearing and submit written arguments in support of the application within a specified time limit. Moreover, any party with a legitimate interest may also file an intervention during the examination stage, instead of waiting for the committee's decision in order to file opposition.

Opposition

Any party with a legitimate interest may oppose a trademark application following its publication in the *Official Bulletin*, which takes place once a trademark is initially accepted by the Trademarks Committee. The deadline for filing opposition is four months commencing on the sixteenth day of the month following that of the actual circulation of the *Official Bulletin* edition where the publication of the contested trademark appears.

Registration

If there are no objections or oppositions, registration takes place automatically after the lapse of the deadline for filing opposition.

Removal from register

According to Article 17 of the Trademark Law, a trademark can be cancelled, either in whole or in part, by a decision of the Trademarks Committee or the competent administrative

courts, in the following circumstances:

- If the rights holder has not put its mark to genuine use for a continuous five-year period following the date of registration, or if the rights holder has not put the trademark to genuine use within the five-year period immediately following its registration. A combination of other provisions and case law confirm that genuine use by a trademark licensee, where the relevant licence has been recorded with the Trademarks Office, may also fulfil the use requirement.
- If the trademark has been registered in the name of an undertaking that has been inactive for a period of five years. The statute does not define the term 'inactive' further and this ground is rarely used as a ground in cancellation actions.
- If the trademark has become a commonly used term due to the activity or inactivity of the owner. This provision places the onus on the rights holder to take any proactive steps necessary to ensure that the trademark does not lose its distinctiveness due to extensive use by others in a context that would render it a generic term.
- If the trademark is likely to mislead the public and if, due to its use by its owner, it is likely to cause confusion with regard to the nature, quality or geographical origin of the goods and/or services that it covers. The objective of this provision is to prevent any use carried out in bad faith subsequent to the mark's registration.
- If it is deemed that the trademark should not have been registered in the first place, because it is in violation of Article 3 or 4 of the Trademark Law. This is an all-inclusive provision that comes into effect if there are grounds to assert that a trademark has been erroneously registered when refusal or opposition procedures are no longer available against a particular trademark.

5. Enforcement

All questions relating to the enforcement of IP rights – with the exception of injunctions (including temporary restraining orders),

which are heard in ordinary civil courts of first instance – fall under the jurisdiction of the IP Community Civil Courts of First Instance and Appeal in Athens and Thessaloniki. These courts were established in 2007. While they represent a welcome development, they are still experiencing backlogs because they are not yet exclusively dealing with IP cases.

In cases of trademark infringement, the actions outlined below may be pursued in the civil courts.

Temporary restraining orders

These are available only in cases of extreme urgency, where the rights holder seeks a temporary court order as soon as the infringing activities have begun so as to enjoin the said activities until adjudication at the injunctive stage. The proceedings may take place *ex parte*, although in most cases the courts invite the respondents to appear. The hearing usually takes place within two weeks of filing the temporary restraining order petition; the hearing consists of a brief oral proceeding with the primary aim of convincing the judge of the urgency of the matter and of the irreparable harm that will be caused to the petitioner if the order is not granted.

If the order is granted, it usually remains valid until the injunction petition hearing takes place; however, at times it may remain in force until the injunction decision is issued. Restraining orders may be requested only if an injunction petition is also filed simultaneously. Even though they are not subject to appeal, a petition to revoke them may be filed.

Injunction

A petition for injunction also requires the existence of urgency. If a temporary restraining order has been granted, the hearing will usually take place within one month of issuing the order, with a decision turnover time of approximately three months. If no temporary restraining order was sought, or if the petition was unsuccessful, injunction hearings will be scheduled within five to six months of filing the request and a decision will follow about three months later.

The procedure is more formal than that for a temporary restraining order, as the hearing

involves the examination of witnesses from each side, the optional submission of sworn affidavits, as well as relevant pleadings and exhibits. The court will also examine the merits of the case in more detail and will conclude on whether, at the very least, it is more likely than not that an infringement has occurred.

Following recent amendments to the Code of Civil Procedure, a main infringement action must be filed no more than 30 days after an injunction decision is issued. Nevertheless, in order to demonstrate the seriousness of the matter being heard before the court at the injunctive stage, it is recommended that the main infringement action be filed concurrently with the petition for injunction or very shortly thereafter. As injunction decisions are always immediately enforceable, a petition to revoke the execution of an injunctive ruling may be filed.

Main infringement action

An infringement action forms part of regular proceedings, where the issue at hand is examined in detail by the competent IP courts on the basis of extensive pleadings. In terms of the relevant timeframes, in cases where unfair competition law is also used as an auxiliary legal basis, hearings take place within six months of the date of filing for cases filed before September 2009, when the time limit for unfair competition law claims was extended from six to 18 months. For cases including claims based on unfair competition law that were filed after September 2009, the hearing is set approximately 10 to 12 months after filing. In both cases, decisions are issued about six months after the hearing.

If the relevant circumstances preclude the application of unfair competition law (either due to non-relevance or because of prescription issues), proceedings are also set between 10 to 12 months from filing, with decisions delivered approximately six months after the hearing.

Damages

Although damages may not be sought during the injunctive stage, they may be awarded as part of the claims during a main infringement action for actual loss and/or moral damages, calculated on the basis of a formula assessing

the loss that has been incurred or the unfair benefit that has been gained.

Criminal sanctions

Although criminal penalties are available in accordance with the provisions of Articles 28 and 29 of the Trademark Law, in practice they are not as commonly pursued as civil remedies. Nonetheless, they may be sought in cases involving the use of trademarks without the owner's consent or the use of marks knowingly imitating a registered trademark with the view of misleading purchasers, particularly in cases of counterfeit goods.

6. Ownership changes and rights transfers

Assignments, changes of address, changes to the legal form of an undertaking and licences with regard to a particular trademark must be recorded with the Trademarks Office in order to have legal effect in Greece, both in terms of ensuring the enjoyment of related rights and in order to be put forward against third parties. To this end, all necessary forms must be duly completed and submitted alongside a valid power of attorney.

7. Related rights

Shapes of products or their packaging, trade dress, logos and business names, alongside other unregistered rights, may – in certain circumstances – enjoy similar protection to that afforded to trademarks under unfair competition law. All of the above, if certain conditions are met, may be regarded as unregistered marks and acquire rights of priority and protection in this manner. Indeed, the remedies available against trademark infringement may also apply by analogy to this type of unregistered rights under unfair competition law, which can be a very useful protection mechanism in such cases.

8. Online issues

The supervision and regulation of telecommunications in Greece is vested with the Hellenic Telecommunications and

Post Commission, an administrative body established by statute in 1992 that began its operation in 1995. The main legal framework can be found in the Commission's Regulation on the Management and Assignment of Domain Names. The regulation sets out the procedures for registering '.gr' domain names, alongside the grounds for cancellation petitions – which are also filed before the commission – against domain names registered, among other things, in bad faith. Although the regulation does not specifically refer to trademark owners, Article 18 of the Trademark Law expressly states that they have the right to the exclusive use of their trademark, including in printed and electronic media, thus including domain names by inference. A successful cancellation petition does not automatically guarantee the registration of the contested domain name in the name of the petitioner, while decisions are subject to recourse by the respondent before the Athens Administrative Court of First Instance within 30 days of its notification.

Unregistered rights Protection for unregistered rights?	✓
Specific/increased protection for well-known marks?	✓
Examination/registration Representative requires a power of attorney when filing? Legalised/notarised?	✓ / ✗
Examination for relative grounds for refusal based on earlier rights?	✓
Registrable unconventional marks	3-D, aspects of packaging, colours ✓
Opposition Opposition procedure available? Term from publication?	Approximately 4.5 months from publication in <i>Official Bulletin</i> ✓
Removal from register Can a registration be removed for non-use? Term and start date?	5 years' non-use from registration ✓
Are proceedings available to remove a mark that has become generic?	✓
Are proceedings available to remove a mark that was incorrectly registered?	✓
Enforcement Specialist IP/trademark court?	✓
Punitive damages available?	✗
Interim injunctions available? Time limit?	Requirement of urgency ✓
Ownership changes Is registration mandatory for assignment/licensing documents?	But highly recommended ✗
Online issues National anti-cybersquatting provisions?	But concept of cybersquatting applicable to bad faith ✗
National alternative dispute resolution policy for local ccTLD available?	Hellenic Telecommunications and Post Commission Policy ✗